

TRIPURA GAZETTE



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PART-- I--Orders and Notifications by the Government of Tripura,
The High Court, Government Treasury etc.

GOVERNMENT OF TRIPURA
LABOUR DEPARTMENT

No.F.12-(51)-LAB/ENF/IR/2005/3305-07

Dated, Agartala, the 9th April, 2018.

NOTIFICATION

In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the State Government hereby publishes the following Award made by the Hon'ble Labour Court, in the Court of the District Judge, West Tripura, in connection with Labour Case No.2 of 2010, Order dated- 07/08/2017 regarding Industrial Dispute between one Sri Prasenjit Chakraborty, Secretary, Save North East, Shyamali Bazar, Agartala, West Tripura Versus Sri R.N. Singh, Director, Employer, North East Multi Media Pvt. Ltd., H.O- N.E. TV Building, A.K. Azad Road, Rehabari, Guwahati-781008, which was received by the State Government (Labour Commissioner Office) on 16/03/2018.

Tasmita Debbarma
Deputy Secretary, Labour
Government of Tripura.

Enclo: Copy of Judgment Order, Dt: - 07/08/2017.

COURT OF THE DISTRICT JUDGE
WEST TRIPURA, AGARTALA

Labour Case No.2 of 2010

Sri Prasenjit Chakraborty,
Secretary,
Save North East
Shyamali Bazar, Agartala
District- West Tripura.

First Party.

- Versus -

Sri R.N. Singh,
Director, Employer,
North East Multi Media Pvt. Ltd.,
H.O.- N.E. TV Building,
A.K. Azad Road, Rehabari,
Guwahati-781008.

PRESENT

Sri R. Pal.
District Judge
West Tripura, Agartala

COUNSEL

| | | |
|------------------------|---|--|
| For the First Party | : | Himself. |
| For the Second Parties | : | Mr. A.C. Bhowmik, Ld. Sr. Advocate assisted by Mr. A. Bhowmik & Mr. Dibyendu Sarkar Learned Advocates. |

| | | |
|-----------------------|---|-----------------------|
| DATE OF INSTITUTION | : | 11.10.2010 |
| DATE OF ARGUMENT | : | 13.07.2017 (Ex-parte) |
| JUDGMENT DELIVERED ON | : | 07.08.2017 |

JUDGMENT

This is a reference under Section 7(1) of the Industrial Disputes Act, 1947 made by the Under Secretary, Government of Tripura, Agartala vide No. F.12(51)-LAB/ENF/TR/2005/9730 dated 5th September, 2010 arising out of an dispute following the locking of NETV (Bangla) channel office at Agartala on 25.02.2010 by the authority/management of North East Multi Media Pvt. Ltd.

2. It is mentionable here that considering the long pending case of the year 2010, I took of the case on priority basis and after hearing of argument first time on 06.02.2017, opportunities were given to the parties 3 (three) times to argue the case but the O.P. did not appear to take participation in the hearing and lastly, on 23.06.2017, after appearance of the first party, I have heard him ex-parte and took up the case for disposal.

3. In the claim statement filed by the first party it is stated that NE Bangla Satellite Television News Channel (under the banner of North East Multimedia Pvt. Ltd.) started its operation on 7th August, 2007 in NETV Building, Shyamalibazar, Agartala after engaging employees for their office in different sections. The employees were working under the immediate leadership of one Chief of Bureau (CoB) from morning to night everyday in the interest of the channel. One Matangh Singh was the Chairman of the channel and it was airing news 24 x 7 from Kolkata. It was expecting by the staff of the channel that management would take initiative for issuance of appointment letter to all, provided P.F. facilities to them, issued standing order after tripartite meeting with Govt. Officials and employees, provided leave facility and other facilities as enshrined in applicable laws of land. But the management except paying of salary to the staff/employees, did not take any care in respect of these issues although they provided hard labour for the development of the channel. In the night of February 25, 2010, the management locked the channel office at Agartala without any consultation or dialogue and sacked the employee. When they take up the matter with the Chairman, he assured them that office will resume its work and asked them to keep patience but in stead of resuming work, the management took away all the equipments and machineries leaving them workless & hopeless and ultimately retrenched the employee of the said office. Accordingly, on July 12, 2010 they approached the Labour Commissioner, Tripura seeking intervention who in turn arranged 3 tripartite meetings, prepared and placed one assessment report through labour officials with consent of both the parties but the representative of the employer refused to accept the cut of date and benefits enshrined in the report. Thereafter, the deprived employee formed an organization name and style as **"SAVE NORTH EAST"** and the petitioner, being the secretary has been working for generating awareness of their agenda and also met with the Chief Minister, Labour Minister, held press meet and also launched a nationwide campaign through national media, politicians, bureaucrats & intellectuals for attainment of the goal. In the claim statement the petitioner stated that after closure of the Office, the management did not serve any proper retrenchment notice to them. It is further stated that the management neither given them their due facilities payable under the legal provisions nor agreed to abide by the assessment report prepared by the Labour Directorate on August, 17 & 18, 2010 as per the decision of tripartite meeting held on August, 6, 2010 in the office of Labour Commissioner. So, he approached this Forum for intervention & resolving the matter so that he can get all the benefits and compensation.

4. In the written statement filed by the second parties it is asserted that assessment report prepared by the Labour Directorate is illegal and contrary to the questions formulated by them in the Schedule and also denied all the averments made by the petitioner in his claim petition. It is also asserted that the petition is unmeritorious and as such deserves to be dismissed with cost at the threshold. They also raised objections stating that said organization is an unregistered association and does not have the right to sue; being unregistered association it cannot be said that a substantial no. of employees have set up their claims against them and it is a case of closing down of undertaking and hence, covered by section 25FFF of the Industrial Dispute Act, 1947. It is further asserted that the claimants/petitioners were employed under 'No Work No Pay' basis and not in continuous service, as such they are not entitled to get any retrenchment compensation u/s 25F(b) of the Industrial Dispute Act. It is also asserted that the undertaking has been closed due to non-cooperation & insolence from the employees since they pressurized the undertaking to extract extraordinary sum of money in collusion with others. The written statement was duly supported by the Affidavit sworn by the Chairman of the said Multimedia Pvt. Ltd.

5. To establish the case of the petitioner, the first party adduced his evidence including the evidence of 8 others and also proved 16 documents. The witnesses were cross examined and during cross examination some suggestions were put to them which were denied by them. The O.Ps, however, did not dispute the documents submitted by the first party specifically. On the other hand, to establish the case of the second party, he has also adduced his evidence and also produced some documents in support of their case. Both sides through their oral evidence canvassed their respective case already mentioned above which is not repeated for the sake of brevity.

6. On the pleadings of the parties, following issues were framed by my Learned Predecessor to decide the case :-

(1) Whether retrenchment of Shri Prasenjit Chakraborty, Secretary, Save North East, Shyamali Bazar, Agartala and 25 (twenty five) other employees by the employer Sri R.N. Singh, Director, North East Multi Media

Pvt. Ltd., H.O. NE TV Building, A.K. Azad Road, Rehabari, Guwahati-781008 was made following the due process of law ?

(2) If the retrenchment is held to have been made, then the actual date of retrenchment of the workers?

(3) Whether the workers are entitled to pending wages and post retrenchment compensation along with encashment of earned leave etc. with determination of time limit for payment by the Management ?

7. I have already mentioned it that as learned counsel of the O.P. was absent on the date of hearing even after passing specific order to take part in the hearing, I heard the case **ex-parte** on appearance of the first party.

8. It is being argued by the first party that Govt. of Tripura vide its Order No.F.12(51)-LAB/ENF/IR/2005/9637 dated 29th September, 2010 referred the dispute to this Court to resolve the issues which were framed by this Court. It is argued that petitioner and other employees were engaged by the North East Multimedia Pvt. Ltd. The Office of NE Bangla News Channel continued its functioning till February 25,2010, the day on which it was locked without informing or giving any notice to the employees or to the Govt. Found it locked they contacted with the authority who assured them that after ongoing problems are resolved, the office will start its function again. Thereafter, getting informing that the management took away all its equipments secretly, they decided to come to a platform. Accordingly, they formed SAVE NORTH EAST organization and sought justice in written to the Labour Commissioner on July 12,2010. It is further argued that the contention made by the Director in his official letter dated 25.07.2010 that the undertaking of the O.P. was closed on 25.02.2010 and that, it was not a case of retrenchment but a case of closure of the undertaking, hence, covered by Section 25FFF of the Industrial Disputes Act are totally false. It is argued that the Director stated in his deposition that notice was given to the Government but I find that practically he did not gave any such notice to the Government and for his false statement, he is required to be prosecuted. It is argued that the Director in his deposition, however, admitted that individual notice in writing was not given to the employees. On the other hand, the documents submitted by him and 25 others clearly indicates that they were not retrenched following due process of law as the law provides, 'No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice, (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay (for every completed year of continuous service) or any part thereof in excess of six month; and (c) notice in the prescribed manner is served on the appropriate government (or such authority as may be specified by the appropriate Government by notification in the official Gazette). He argued that Labour Commissioner himself on oath deposed that provision of the Industrial Disputes Act was not followed by the management of NE Bangla. Besides, the deposition of the Accountant of that office clearly indicates that he used to prepare bills and also make payment of salary to the petitioner and others and he never received any order for stoppage of salary of any of them, rather he presented all the documents at the time of assessment and on the basis of that documents, the staff of the Labour Directorate prepared Assessment Report. He argued that works done by him and others were also supported by Mr. Sanjib Deb, CoB of that undertaking. He argued that the documents like individual bank pass book, various certificates & application, assessment report prepared by the Labour Commission Officials etc. and also the deposition of himself and others, who were the workers of that undertaking including the deposition of the Director himself clearly indicate that he along with other 25 employee worked under North East Multimedia Pvt. Ltd. for more that 1 (one) year. At last, it is being argued by him that as the claimants were in continuous service under their employer and the retrenchment order is established to be illegal in the eye of law, the notice dated 25.02.2010 is required to be declared as illegal and void ab initio and claimed salary w.e.f. 25.02.2010 to 12.07.2010 **(the date on which they approached to the labour commissioner for intervention with the matter)**.

9. I have considered the submissions made by the petitioner. I find that as the petitioner was recognized by the Labour Court as representative of the employess, issued notice only upon him and refrained from issuing notice to other employees. It cannot be disputed that the Standing Notice dated 25.02.2010 in question authorized the second party to terminate the service of the first party petitioner and other **(as names are**

mentioned in the notice) in the circumstances of the case. It can not be so that the Notice remains in force authorizing the Second Party to terminate the service in a circumstances as the one in hand, at the same time, it is given a go by. It is a settled position of law that if there is a stipulation in the contract of employment between the employer and the workmen providing the mode and manner of termination of service, such termination of service is excluded from the definition of retrenchment. In the case in hand, the termination of the petitioner and 25 others is for violation of contract of employment. The NE TV Bangla News Channel started its function from 7th August, 2007. The experience certificates issued in favour of the employees concerned on 30.10.2009 by Chief of Bureau namely Sanjib Deb, press sticker and other documents clearly indicates that they were in service till that date i.e. for more than 1 (one) year. The word **“termination”** means the termination of service of workman for any reason other than punishment [Sec. 2(00)] Termination of service of the workman as a result of non-renewal of the contract is not amount to retrenchment. Lock out is not termination as Lock out is defined by Sec.2(1) as the temporary closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him whatsoever the cause. **If the closure is an amount to lockout without bona fide ground the employer is liable to give compensation** as per section 25FFF. The provision laid down in Section 25F of the Industrial Disputes Act, 1947 read with Rule 83 of the Tripura Industrial Disputes Act, 1981 it is obligatory to serve notice upon the workmen about the intention of the management to retrench the workman and fix a date of retrenchment and to serve a notice on the appropriate govt. in prescribed manner but the undertaking did not follow the same. A question raised by the O.P. is that the petitioner and few other were working in Positive Television Pvt. Ltd. I have perused the License document of NE Bangla and on perusal it appears that Positive Television Pvt. Ltd. Is the owner of the channel named NE Bangla which was functioning under the banner of North East Multimedia Pvt. Ltd. Thus, such plea of the O.P. ex facie false and deserves no consideration. Another question was also raised by the O.P. that the employees were working in NE Bangla as **“No work no pay”** basis but in this respect also the O.P. failed to show any document. On the other hand, from the letter dated 25th of July, 2010 issued by R.N.Singh, Director, North East Multimedia Pvt. Ltd. it is found that in the said letter he mentioned it that **“the NE Bangla Satellite News Channel having Head Office at Kolkata headed by Mr. Biswajeet Mazumder and there is a bureau office at Agartala which has been incurring heavy losses during the last more than a year. However, we have paid the salaries of all the staff of their services rendered to the company.”** Thus, it is clear from the said letter that they were the employees of the undertaking.

The O.P. in their written statement admitted it in Column No.III that the undertaking of the O.P. was closed on 25.02.2010 and therefore, it is not a case of retrenchment but a closure of undertaking. On the other hand, from the notice dated 25.02.2010 it reveals that 26 nos. of staff of NE Bangla, Agartala Bureau have been terminated from their services w.e.f. 25.02.2010 though the authority failed to produce any legal notice served upon the employees fixing the date of retrenchment. It is also admitted by them in the said notice that they will pay the salaries of all the staff for their services rendered to the company till date of termination. As such, as per Section 25FFF, the employer is liable to give compensation to the said 26nos. of staff.

Perused the Assessment Report prepared by the Labour Directorate which is counter signed by the Chief Labour Officer, West District Labour Office on 18.08.2010 for the retrenched employees of N.E. (Bangla) under North East Multimedia Pvt. Ltd. showing entitlement of wages/compensation due to retrenchment by the management. From the report it reveals that since there was no specific notice issued from the side of management, the date of retrenchment was fixed by the Labour Directorate on 12.07.2010. It is also found that the employees were entitled to get the wages/compensation due to retrenchment on the following manner :

- “(a) Wages for one month in lieu of the prescribed notice (as per provision laid down in Sec. 25F(a) of the Industrial Disputes Act, 1947).
- (b) Compensation at the time of retrenchment which shall be equivalent of fifteen days average pay for every completed years of continuous service or any part thereof in excess of six month (as per provision laid down in Sec.25F(b) of the Industrial Disputes Act, 1947).
- (c) Wages for the leave period within the meaning of Section 2(vi) of the Payment of Wages Act, 1936.

And, Employees are entitled to enjoy leave for 48 days in a year as per terms of appointment agreement.”

In this regard, the Labour Directorate also prepared a list in which they clearly mentioned how much the employees are entitled to get. So, I find that the Labour Directorate after taking due care considered the complaint of the employees of NE TV Bangla News Channel of Agartala Office and also made proper calculation of the wages/compensation due to their retrenchment.

It is found that as the management of NE TV Bangla News Channel of Agartala Office did not accept the Assessment Report, about 17 nos. of employees accepted the offer of payment of outstanding salary from the 7th February to the 25th February, 2010 and one month's notice pay to the employees in settlement of claim and accordingly, the management have settled their claim. It has also come to the notice of this Court that during pendency of the case 5 nos. employees namely Pradip Chakraborty, Sanjib Das, Smti. Anamika Ghosh, Prasanjit Bhattacharjee & Smti. Rupa Nandi (Ghosh) left from the instant case as they got job in other department. **As such, remaining 4 nos. of employees namely (1) Prasenjit Chakraborty, (2) Janardhan Sarkar, (3) Sunanda Bhowmik & Nandu Malakar** are entitled to get the wages/compensation due to their retrenchment as per the Assessment Report prepared by the Labour Directorate along with interest @ 6% p.a. from the date of **18.08.2010 (date of preparation of assessment report)**.

Accordingly, all issues are decided in the affirmative and in favour of the aforesaid 4 (four) petitioners only.

10. In view of above it is ordered that the petitioner namely (1) Prasenjit Chakraborty, (2) Janardhan Sarkar, (3) Sunanda Bhowmik & Nandu Malakar are entitled to get the wages/compensation due to their retrenchment as per the Assessment Report prepared by the Labour Directorate. It appears that due to non acceptance of the assessment report by the management, the aforesaid 4 (four) petitioners have suffered a lot. As such, they are also entitled to get interest @ 6% p.a. from the date of **18.08.2010 (date of preparation of assessment report)** till the date of payment. The O.P. is directed to pay their dues as per assessment report within a period of 2(two) months from today.

11. Hand over a copy of this judgment to the 1st Party free of cost. Also send copy of the judgment to the Labour Commissioner and Secretary, Labour Department, Government of Tripura, Agartala for publication of the judgment.

Enter the result in the relevant register.

The case is thus disposed of on contest, however, without any costs.

ANNOUNCED

R. Pal
District Judge
West Tripura, Agartala

Type to my dictation
and corrected by me.

R. Pal
District Judge
West Tripura, Agartala

**GOVERNMENT OF TRIPURA
DEPTT. OF SCIENCE, TECHNOLOGY & ENVIRONMENT
VIGYAN, PRAJUKTI O PARIVESH BHAWAN
GORKHABASTI: AGARTALA
TRIPURA-799006**

No. F. 11(35)/DSTE/CC/Pt-I/2282-300

Dated, Agartala, the 11th April, 2018.

MEMORANDUM

Subject: - Conservation and Protection of Water bodies-regarding.

In pursuance with the "Statutory Guidelines for Protection & Preservation of Lakes, Ponds and Water bodies in Tripura" framed vide Notification No.F.11(35)/DSTE/CC/ Pt-I/3813-24 dated 24.05.2017 and also in accordance of the public interest, the following **Sub-Division wise Committees** are hereby constituted to take necessary steps for monitoring and effective implementation of the above Statutory Guidelines for Protection & Preservation of Lakes, Ponds and Water bodies of their respective jurisdiction ;

- | | |
|---|-------------------------|
| 1. S.D.M. of the Sub-Division concerned- | Chairman |
| 2. S.D.F.O of the Forest Sub-Division concerned | Member |
| 3. S.D.P.O. of the Sub-Division concerned- | Member |
| 4. Municipal Commissioner/ Chief Executive Officer/ Executive Officer of Respective AMC/Municipal Council / Nagar Panchayets concerned- | Member |
| 5. Asstt. Engg. PWD(WR) of the Sub-Division concerned - | Member |
| 6. Representative of Fishery Department of the Sub-Division concerned- | Member |
| 7. Scientific Officer, DSTE of the concerned District- | Member |
| 8. Representative from TSPCB - | Member |
| 9. Senior Official of O/o the concerned SDM Office as Selected by the Sub-Division Magistrate of the Sub-Division concerned - | Member Secretary |

A. The Committee shall monitor the water bodies and check its water quality with the help of TSPCB periodically for maintaining ecology & B environment falling under concerned jurisdiction. The committee shall submit their suggestions/recommendations before the Concerned implementing Department(s) of the Govt, of Tripura time to time for needful action. The S.D.M./ S.D.P.O will take necessary legal action as per decision taken by the Committee if any.

C. The Committee should meet as and when required and at least twice in a year and assess the up to date stock of the situation. The Committee can co-opt any other officer if feel necessary.

This order shall take immediate effect.

By order of the Governor,

Dr. A. Rastogi, IFS
Secretary
Government of Tripura.

**GOVERNMENT OF TRIPURA
DEPARTMENT OF SCIENCE, TECHNOLOGY & ENVIRONMENT
P.N. COMPLEX, GORKHABASTI
AGARTALA**

No. F. 4(253)/DSTE/ESTT/Pt-I/2018/1771-88

Dated, Agartala, the 27th March, 2018.

NOTIFICATION

The Governor of Tripura is pleased to re-constitute the Executive Committee of Tripura State Council for Science & Technology (TSCST) as follows with effect from the date of issuing of this notification.

- | | |
|--|--------------------------|
| 1. Sri Sudip Roy Barman, Minister-in-Charge, Science, Technology & Environment Department, Govt, of Tripura | - Chairperson |
| 2. Principal Secretary/Commissioner/Spl. Secretary/Secretary, Science, Technology & Environment Department, Govt, of Tripura | - Member-Secretary |
| 3. Chairman, Tripura State Pollution Control Board | -Member. |
| 4. President, Tripura Board of Secondary Education | -Member. |
| 5. Director, Science, Technology & Environment Department, Govt, of Tripura | -Joint Member-Secretary. |
| 6. Director, School Education, Govt, of Tripura | -Member. |
| 7. Director, Higher Education, Govt, of Tripura | -Member |
| 8. Director, State Council for Educational Research & Training, | - Member |
| 9. Sri N. Datta, Principal Scientific Officer (Space Application) & In-charge Tripura Space Application Centre | -Member Deputy Secretary |

Dr. Alind Rastogi,
Secretary
to the Govt. of Tripura.